

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: MAY 10, 2010

Sushil Kumar Saini through his L.Rs

.....Petitioner

VERSUS

The State of Haryana and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

PRESENT: Mr. Subhash Ahuja, Advocate,
for the petitioner.

Mr. S. S. Pattar, Sr.DAG, Haryana,
for the State.

None for respondent Nos.3 to 8.

RANJIT SINGH, J. (ORAL)

Mr.Ahuja, learned counsel appearing for the petitioner is apparently flogging a dead horse. The claim of the petitioner, who is no more, is not only pressed hard despite knowing that even two respondents, against whom, he was claiming seniority, are also died.

The seniority claim of the late petitioner, which is being pursued by his L.Rs, is made out the ground of his appointment in the regular service. It appears that the petitioner as well as the respondents were initially appointed as Computer in the pay scale of

Rs.110-225 in the Directorate of Land Records, Haryana. He joined the duties on 18.9.1978. Subsequently, however, he was absorbed in the respondent-office w.e.f 1.3.1979. Though the petitioner would make reference to various Government notifications but the fact remains that he was regularised w.e.f 15.9.1982. Like him, the private respondents, except respondent No.6, were also regularised with effect from 15.9.1982. The services of respondent No.6 were regularised on 1.4.1985. The grievance of the petitioner is that the date of regularisation of the private respondents was subsequently changed to 1.1.1980.

The counsel would contend that the petitioner was senior to the private respondents and on the basis of his seniority as determined in the seniority list issued, he was granted the selection grade, which was allowed to 15% of the posts, in order of seniority. In view of the subsequent change of date of regularisation of the private respondents to 1.1.1980, the petitioner became junior to the private respondents and accordingly the selection grade, which was allowed to him, was withdrawn. Accordingly, the payment which was made to him, was also withdrawn.

The record would show that when the petitioner was shown senior to the private respondents, they had filed a civil suit, which was allowed. The petitioner not only filed an appeal against the judgment passed by the Civil Court but also filed present writ petition, which he claims to have filed prior to coming to know of the filing of Civil Court. Apparently, the petitioner has pursued two remedies. His appeal filed against the judgement rendered by the Trial Court was allowed only on the ground that he had challenged the seniority in

the writ petition.

Mr. Som Nath Saini, though is not representing the private respondents in the writ petition but is appearing for the appellant in connected S.A.O. No.22 of 1996, which is being disposed of alongwith the present writ petition. On the basis of record of S.A.O as well as other Civil Writ Petition Nos.8002 of 1999 and 21603 of 2008, Mr.Saini would point out that by no stretch of imagination, the petitioner would rank senior to the private respondents. He would point out that the petitioner was appointed with effect from 18.9.1978, whereas the private respondents were appointed as Computer on 1.12.1977. The petitioner was absorbed in the respondent-Department with effect from 1.3.1979 whereas the private respondents were so absorbed with effect from 1.1.1979. It is in view of this seniority that the private respondents were regularised with effect from 1.1.1980 whereas the petitioner being junior to them was so regularised with effect from 15.1.1982. Because of the seniority, the private respondents had prior right for regularisation on completion of two years of service and, thus, the policy dated 1.1.1980 was applicable for their regularisation.

The petitioner has no basis to make a claim of seniority either on the basis of date of appointment or on the date of regularisation or even on the basis of date of his absorption. Taking the case from any angle, the private respondents always remained senior to him and were so regularised on 1.1.1980. Otherwise also, there is no issue left to be decided in this case in view of the death of the petitioner as well as two of the respondents. The selection grade was required to be granted on the basis of seniority to the 15% of the

posts and accordingly this was rightly withdrawn from the petitioner.

There is, thus, no merit in the writ petition. The same is accordingly dismissed. However, since the petitioner was granted this selection grade and he had not made any misrepresentation, the recovery can not be effected from the L.Rs of the petitioner.

The consequence of this order would be that S.A.O No.22 of 1996 filed by Charan Singh would have to be allowed and the judgment passed by the first Appellate Court shall stand reversed and the Trial Court order restored. It is so ordered.

May 10, 2010
Khurmi

(RANJIT SINGH)
JUDGE